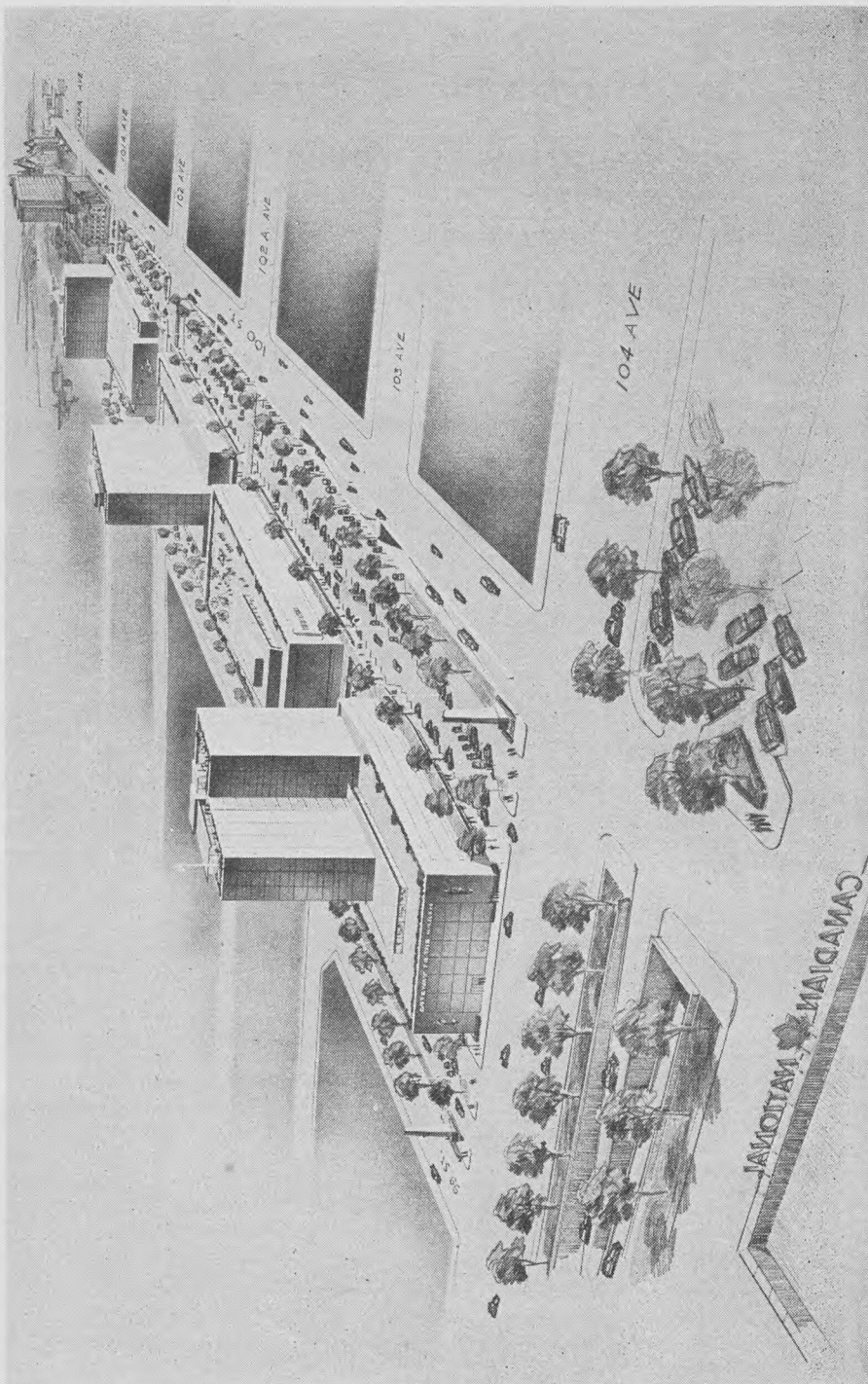


*The Within Proposed Agreement
Was Finally Approved By
City Council at a Meeting on
September 29, 1950,
For Submission to a Vote of
The Burgesses
on November 1, 1950*

(NOTE: The 1949 City Charter Amendment required that this matter be submitted to the Burgesses "in the same manner as in the case of a money by-law." Therefore a public notice calling attention to the fact that the Burgesses will be asked to consider this proposed agreement will appear in the City Newspapers once a week for 3 consecutive weeks immediately preceding the day of general voting. The proposal will require the affirmative vote of 2/3 of the Burgesses voting thereon).



LORIMER & ROSE - ROBERTS & SCHAEFER
ARCHITECTS & ENGINEERS - 224 WEST 54th ST. N.Y.C.
L.E. DETWILER-MANAGEMENT CONSULTANT

EDMONTON CITY CENTRE

EXHIBIT 2 (referred to in Section 3(2) hereof)

THIS INDENTURE OF LEASE AND AGREEMENT made this
day of
A.D. 1950.

BETWEEN:

THE CITY OF EDMONTON, A Municipal Corporation in the Province of Alberta, Dominion of Canada, party of the first part, (hereinafter referred to as "THE LANDLORD")

— and —

THE FIRST NEW AMSTERDAM CORPORATION, a New York corporation, having its office and principal place of business at 120 Broadway, in the City of New York, in the State of New York, one of the United States of America, and being registered in Alberta pursuant to The Companies Act party of the second part, (hereinafter referred to as "THE TENANT").

WHEREAS, the Edmonton Charter, as amended by Chapter 113 of the Statutes of Alberta, 1949, provides that the Council may enter into an agreement for the development of the Civic Centre area as therein defined as a modern business, shopping, professional and social centre with provision for public services and public benefits such as an auditorium, a public market, public museum and art gallery and surface and underground public and private parking areas, and in connection with the agreement, the Council may lease the land comprising the Civic Centre area for a period not exceeding 99 years and may grant such tax concessions, allowances or exemptions as in the opinion of the Council are commensurate with the public services and benefits provided by such completed development to the person undertaking to complete such development and to furnish such public services and public benefits to the satisfaction of the Council:

AND WHEREAS the tenant has proposed a plan of development of the Civic Centre area in the manner stated in the next preceding recital and has agreed to complete such plan (hereinafter sometimes called the project), including therein public services and public benefits which, in the opinion of Council, are commensurate with the tax concessions, allowances or exemptions hereinafter provided.

Legal
consider-
ation.

NOW THEREFORE the Landlord, being registered as owner of the lands and premises hereinafter more particularly described does hereby in consideration of the premises and of the sum of \$5,000.00 of the lawful money of Canada paid by the tenant to the landlord (the receipt of which the landlord hereby acknowledges) and the performance and observance by the tenant of the covenants, terms, stipulations and conditions on the part of the tenant to be performed and observed as hereinafter set forth, lease to the tenant all the said land to be held by it as tenant for the space of sixty-nine (69) years, subject to the covenants and powers implied in the Land Titles Act,

being Chapter 205 of the Revised Statutes of Alberta, 1942, and amendments thereto, save where the same are hereinafter modified or varied, such land being more particularly described as follows:

Description
of demised
lands.

A. All those certain lots or parcels of land situate, lying and being in the City of Edmonton in the Province of Alberta, in the Dominion of Canada described as follows, namely:—

Lot 26 and Block X and Lots 47 to 81 both inclusive in River Lot 8, Plan E and Lots 82 to 87 both inclusive in River Lot 8, Plan E F, excepting thereout those portions thereof required for widening of 104th Avenue, of record in the Land Titles Office for the North Alberta Land Registration District shown on white print hereto attached marked Exhibit 1.

B. All those parts of the lane North of 102nd Avenue; 102A Avenue; the lane North of 102A Avenue; 103rd Avenue; and the lane North of 103rd Avenue as shown hatched on said Exhibit 1 and the landlord covenants to close the areas included in the said parts of the highways in this subclause described.

Right to
occupy sub-
surface
areas.

C. (1) Together with the right to use and occupy for the purpose of the project to the extent specified in this subclause C,

(a) The area below the surface of the lands and parts of highways mentioned in subclauses A and B of this paragraph;

(b) The area below the surface of 101 (Jasper Avenue); the lane North of Jasper Avenue; 101A Avenue and 102nd Avenue, 104th Avenue; 99th Street and 100th Street as indicated on said Exhibit 1.

(2) In making use of said subsurface areas the tenant shall conform with the best engineering standards so that street surfaces above such areas may be used with safety by all traffic using such streets.

**Right to
construct
building
over lanes.**

D. The tenant shall also have the right to construct over that part of the lane north of 101 (Jasper) Avenue as indicated on said Exhibit 1 a building not more than 50 feet in width, the lowest portion of which said building shall be not less than 15 feet above the surface level of the lane.

Excepting and reserving from the foregoing described lands and highways unto the landlord all oil, gas, mineral or mining rights in or under the aforesaid parcels of land and parts of highways, **PROVIDED, HOWEVER**, that during the term hereof the landlord shall not grant any lease or license to explore for or to conduct drilling operations within the said parcel of land or parts of highways for oil, gas, or other minerals but nothing herein shall be construed so as to prevent the landlord or its assigns from extracting oil, gas, or other minerals by means of lateral access providing such extraction can be effected without risk of damage to any of the tenant's property.

Term.

TO HAVE AND TO HOLD the demised premises for the period of sixty-nine (69) years commencing on the day of A.D. 19 and ending on the day of A.D. 20, both inclusive, unless sooner determined as herein-after provided, **SUBJECT HOWEVER**, to existing leases, tenancies and licenses terminating not later than sixty (60) days prior to the date for the delivery by the landlord of full and complete possession of said parcels.

**Tenant to
cause no
damage in
construction.**

1. The tenant covenants:—
(a) in the construction of the project to do all work in such a manner as not to cause damage to any utility installations, including natural gas installations, in, under or upon any part of the demised land or in, under or upon any part of any highways of the City the tenant is herein permitted to use for the purpose of the project.

(b) To permit the agents of the City to enter into and upon any part of the project at any time for inspection purposes and to comply with any written directions of such agents concerning measures to be taken by the tenant to protect any of such utility installations, including natural gas installations.

**Settle-
ment or
subsid-
ence.**

(c) If any settlement or subsidence results from the construction of the project the expense of repairing street surfaces and all utility installations, including natural gas installations, to which damage may be caused, including consequential damage, shall be

borne by the tenant and the tenant agrees to indemnify the landlord from all claims for damages to such surface and utility installations, including consequential damage, which may occur from such settlement or subsidence due to such construction and during construction to insure against said risks, if such insurance can be obtained at a reasonable cost.

**No obli-
gation to
tenant to
maintain
street
surfaces.**

(d) Except as mentioned in the next preceding subclause it is expressly understood that the tenant shall have no obligation to repair and maintain any of the surfaces of highways other than the

obligation to repair and restore any openings or damage occasioned by construction by the tenant hereunder, the tenant being hereby granted the right to construct temporary and permanent roadways from and in streets referred to in subclause C. (1) (b) to subsurface areas at locations indicated upon Exhibit 2 hereto attached, or at any other locations satisfactory to the landlord.

(e) If the tenant desires to relocate any utility installations presently existing in or under any land or area included in this lease, the landlord, if of opinion that such relocation is reasonably practicable, will consent thereto but the work of relocation will be done by the landlord or its nominee and the tenant will pay the cost thereof upon demand.

(f) The landlord will at its expense widen and repave 99th Street by moving the present westerly boundary thereof 16 feet to the West.

**Landlord to
deliver
possession
to tenant.**

2. (1) Subject to the provisions of paragraph 26 hereof, the landlord has or will, at the time for delivery by the landlord to the tenant of full and complete possession of the demised premises as hereinafter provided, have (and will deliver to the tenant) the right to immediate possession thereof free and clear of all liens and encumbrances, subject, however, to this lease;

**Pur-
pose
of
lease.**

3. (1) The landlord is leasing the demised premises to the tenant for the purpose of the development by the tenant of the demised premises as a modern business, shopping, professional and social centre with provision for public services and public benefits such as a public auditorium, market, public museum and art gallery and surface and underground public and private parking areas, and shall include the construction of the following:

**Particulars
of construc-
tion by
tenant for
such pur-
poses.**

(a) Parking facilities on or above the surface level of the demised premises and below ground for approximately one thousand eight hundred (1,800) motor vehicles;

(b) A public auditorium with a seating capacity for approximately two thousand five hundred (2,500) persons together with facilities and conveniences therein for the presentation of musical recitals, drama, lectures, motion pictures, radio and television, for religious, civic and social gatherings, conventions and for all types of cultural and entertainment activities.

(c) A Market;

(d) A public museum and art gallery for exhibition, by the landlord or its nominee, of paintings, sculptures and other works of art, relics, curios, antiques and other exhibits to be located in the arcade section underneath Jasper Avenue and 101A Avenue, and also two rooms 16 feet by 25 feet each in size to be used by the landlord or its nominee free of charge by the tenant as office, storage or meeting rooms to be located in the underground arcade section between Jasper Avenue and the lane on the north side, and said public museum and art gallery shall be accessible to the public free of charge by the tenant.

(e) Sub-surface automobile service facilities, for maintenance, repairs and cleaning;

(f) A children's nursery and play area with indoor and outdoor play facilities for the convenience of shoppers and visitors with small children;

(g) Covered sidewalks protecting pedestrians against the elements;

(h) Professional building, primarily for medical, dental and other professions and for suppliers thereof, and for other businesses;

(i) Office and commercial buildings;

(j) Appropriate landscaping;

(k) Illumination of project during the hours of night; and said centre may include one or more department stores, radio and television broadcasting stations, and various types of general businesses, offices, stores, shops, restaurants, clubs, studios and any businesses or activities permitted by law, and related service facilities.

**Surface
area to
be
built
upon.**

(2) Approximately one-third of the surface area of lands and parts of highways referred to in sub-paragraphs A and B of paragraph 1 shall be improved with buildings and approximately the

remaining two-thirds of the said surface area shall be utilized for parks, landscaping, streets and parking facilities for motor vehicles, all as generally shown in the sketch marked Exhibit 2 and forming part of this agreement.

**Covenant
by tenant
for con-
struction
of buildings.**

4. (1) The tenant covenants to construct upon the demised premises all the buildings, structures and improvements referred to in the next preceding paragraph as the completed development, but in the initial development to construct the following:

(a) Public service features, such as parking facilities on or above the surface level of the demised premises and below ground, to accommodate approximately one thousand eight hundred (1,800) motor vehicles; side-walks, arcades, public museum and art gallery and appropriate landscaping, comprising approximately 800,000 square feet.

(b) A public auditorium with a seating capacity of approximately two thousand five hundred (2,500) persons as hereinbefore described.

(c) Office, professional, commercial buildings and market which together with auditorium described above, but exclusive of the public service features mentioned in sub-clause (a) of this paragraph will provide approximately one million three hundred thousand (1,300,000) square feet of gross floor space, of which approximately one million (1,000,000) square feet will be rentable space and of which a minimum of six hundred and fifty thousand (650,000) square feet of gross floor space together with approximately 800,000 square feet of surface and underground space for public service features will be initially constructed, all of the foregoing, together with the necessary equipment, furniture, fixtures and furnishings, are hereinafter called the "Project."

**According
to City
regulations.**

(d) The project shall be constructed in accordance with plans to be prepared by Messrs. Lorimer & Rose, architects, or such other architects as may be selected by the tenant and approved by the landlord, (the provisions of any existing Statute of the Province of Alberta requiring the retention, as well, of a registered architect of the said Province to be complied with) who shall be retained as the Supervising Architects, and in general accordance with the lower level plan, street floor plan and architect's conception attached hereto and marked Exhibits 2 to 10. The construction of the public auditorium and the aforesaid buildings to be initially built, totalling six hundred and fifty thousand (650,000) square feet of gross

**Initial
construc-
tion.**

floor space, and the public service features, totalling approximately 800,000 square feet representing approximately 2% of the total cost of the completed project, shall be completed within a reasonable time not exceeding three (3) years after the date upon which the landlord shall, as hereinafter provided have delivered full and complete possession of the demised premises; provided, however, that the Project shall be constructed in accordance with all applicable laws, ordinances and regulations of the appropriate governmental unit or department.

(e) The construction of the remaining 650,000 square feet of gross floor space of the proposed buildings, shown in the aforesaid architect's conception, may be deferred until demand from time to time for the space by tenants ready, able and willing to enter into leases which will ensure a reasonable return on the investment occurs. If the construction of such excess gross floor space is deferred then the portions of the buildings to be initially constructed shall be constructed in such manner that the deferred rentable floor space of 650,000 square feet may be added at a later date.

General plans of construction.

(f) The Project is generally shown on a street floor plan and lower level plan and in an architect's conception of the centre prepared by Messrs. Lorimer and Rose, architects, Messrs. Roberts and Schafer, engineers, and L. E. Detwiler, management consultant, all of the City and State of New York, one of the United States of America, as shown in the sketches marked Exhibits 2 to 10, inclusive, attached to and forming part of this agreement.

Material and workmanship to be of first class quality.

(g) In the construction of the Project only material and workmanship of first class quality for the purpose intended shall be utilized so that the Project both in its initial construction and completed state shall be of artistic, functional and dignified appearance and similar in appearance to the sketches marked as Exhibits 2 to 10 hereto and of materials as per Schedule "A" hereto.

Modification in construction.

(h) It is understood and agreed that with the approval of the landlord first had and obtained, the building arrangements and heights shown on the preliminary exhibits above mentioned shall be subject to rearrangement both as to height and bulk, depending upon the logical development of the tenants' and sub-tenants' requirements and any height limitation imposed by law, in

order that the ultimate gross floor area of approximately one million three hundred thousand (1,300,000) square feet of which approximately one million (1,000,000) square feet will be rentable space (exclusive of public service features referred to in paragraph 4 (1) (a)) may be achieved.

Deposit with City of construction contracts.

(i) Prior to commencing any work (including demolition) on the demised premises the tenant covenants to deposit with the landlord a true copy of each contract or arrange-

ment made between the tenant and any contractor concerning the erection of the said buildings and facilities, together with true copies of plans and specifications thereof, and true copies of any and all bonds required by the tenant from said contractors to ensure completion of said buildings and facilities according to said plans and specifications and within the time herein provided therefor.

Organization of company to be known as Edmonton City Centre Limited and powers of company.

5. (1) With reasonable promptness after the execution and delivery of this lease the tenant will organize, or cause to be organized, a public company under the laws of the Province of Alberta, under the name "EDMONTON CITY CENTRE, LIMITED" or other suitable name if such name is not then available (hereinafter called the "CENTRE"), with an authorized common capital stock in the aggregate nominal or par amount of at least two million dollars (\$2,000,000.00) and such preferred stock capitalization as may be required.

(2) The tenant will submit to the landlord the memorandum and articles of association of said company for approval, it being understood however, that the powers of the company shall include the power to carry on upon the demised premises but not elsewhere, the management and operation of the project itself and any business or undertaking which may lawfully be conducted upon the demised premises themselves, but shall expressly exclude any power to acquire real property elsewhere, to make loans to shareholders of the company or to transfer any property of the company to any shareholder, except only reasonable dividends, if the net profits of the company so justify.

(3) The articles of Association shall also provide that two of the directors of the company shall be appointed from time to time by the landlord.

(4) The memorandum and articles of association shall not be amended, modified or in any way altered after approval by the landlord, unless such amendment, modification or

alteration has previously thereto been approved by the landlord.

(5) The tenant will assign to the Centre all right, title and interest of the tenant hereunder and the Centre will undertake and assume all obligations of the tenant hereunder, as if this lease had been entered into by the Centre originally and the landlord hereby consents to such assignment to and assumption by the Centre and upon such assignment and assumption releases the tenant of all further liability hereunder.

Termination in 18 months if tenant cannot furnish satisfactory proof of ability to complete project.

6. Notwithstanding any of the provisions contained in paragraphs 22 and 26 hereof to the contrary, if within the period of 18 months from the date of the coming into force of this agreement the tenant or its assignee has not produced to and left with the landlord assurances satisfactory to the landlord, whose approval shall not be unreasonably withheld, that the tenant has completed the necessary financing and has the ability to proceed with and complete the construction of the public service features referred to in paragraph 4 (1) (a) and (b) and the minimum construction of 650,000 square feet of rentable space specified in said paragraph 4 (1) (c) and will so proceed forthwith after delivery to the tenant of the demised premises, this lease shall ipso facto be determined and at an end and the landlord shall return to the tenant Exhibits 2 to 10 mentioned in this agreement but the sum of \$5,000.00 paid by the tenant shall not be refundable to the tenant, provided however, that if after producing such satisfactory assurances and leaving the same with the City the tenant is prevented from performing its obligations hereunder, by reason of any of the events specified in paragraph 26 hereof, the time for completion of performance will be extended by a period of time equal to the delay caused by such events and provided further that at any time before the expiration of said 18 month period the tenant may give notice to the landlord to cancel this lease and upon the sending or mailing of such notice this lease shall be determined and at an end, and the said sum of \$5,000.00 shall not be refundable to the tenant. In either of the events hereinbefore in this article 6 provided, said \$5,000.00 shall be retained by the landlord as liquidated damages and in full satisfaction and release of any claims against the tenant and the tenant shall furnish the landlord with a registerable surrender of this lease.

Provided further that if within the said period of 18 months first referred to in this paragraph the tenant shows to the reasonable satisfaction of Council that it has been delayed

in completing the necessary financing due to any of the following causes, namely:—

(a) A state of war between the United States of America and any foreign power.

(b) A state of National Emergency occurring in the United States of America.

(c) Any governmental provision or restriction not in existence as at the date of the execution and delivery of this agreement, the landlord will consent to an extension of such further period of time as the Council of the landlord then deems reasonable, but not in any case greater than the period of delay so caused, within which the tenant shall produce to and leave with the landlord assurances satisfactory to the landlord that the tenant has completed the necessary financing and has the ability to proceed with and complete the construction of the public service features referred to in paragraph 4 (1) (a) and (b) and the minimum construction of 650,000 square feet of rentable space specified in paragraph 4 (1) (c) and will so proceed forthwith after delivery to the tenant of the demised premises, but if by the end of the period of such extension, the tenant fails to produce to and leave with the landlord the said assurances this lease shall ipso facto be determined and at an end.

(d) The assurances hereinabove in this paragraph mentioned shall include an undertaking by tenant or its assignee to deposit \$250,000 in cash or in securities acceptable to landlord in a bank in Edmonton satisfactory to landlord in escrow at the time of delivery of possession of the site by the landlord, as security that tenant will proceed with reasonable diligence with the construction of the Project, such escrow to provide that said sum of \$250,000 in cash or securities shall be released and paid over to tenant within 30 days after commencement of actual work on the project and expenditure on such work of not less than \$250,000 as shown by architects certificate, and in the alternative that in event of failure of the tenant to fulfil such conditions for release to it of said sum within 6 months after delivery to it by landlord of possession of the site, subject only as otherwise provided in paragraph 26 hereof, said sum shall be paid over to landlord as liquidated damages.

If tenant proves ability City to deliver possession.

7. Not later than eighteen (18) months from the date hereof, unless prior thereto the tenant shall have exercised its right to cancel this lease pursuant to article 6 hereof, if the tenant or assigns of the tenant shall furnish assurances satisfactory to the landlord that the tenant has completed the necessary financing for and has the ability to proceed with and will proceed with and complete the construction upon the demised prem-

ises as provided in Article 4 hereof (together with, if prior to the expiration of eighteen (18) months from the date hereof or such extended period written waiver of any right thereafter to cancel this lease), and thereupon, subject to the provisions of paragraph 26 hereof, the landlord will within 90 days after the date of the expiry of such period or the date of the giving of the aforesaid notice, whichever date be the earlier, deliver full and complete possession of the ground area (including Lot 15, in River Lot 8) and buildings to the tenant free and clear of any encumbrances or occupancies and in suitable condition for the tenant to proceed with its construction work; it being understood and agreed that the existing buildings and structures on the site will be removed by the tenant at its own expense.

Title to buildings etc. to vest in tenant during term. 8. (1) Title to any buildings or other improvements, or equipment of a permanent character which shall be erected or placed upon the demised premises by the tenant shall remain in the tenant until the expiration or earlier termination of this lease subject to the other terms and conditions of this lease.

Tenant may substitute better buildings. (2) The tenant may, with the consent of the landlord, such consent not to be unreasonably or capriciously withheld, at any time during the term of this lease, replace or restore, in whole or in part, any one or more of the buildings and improvements described in article 4 with buildings and improvements of the same or better quality and construction and of equal or greater value than the buildings and improvements being replaced have at such time; provided, however, that prior to the commencement of any work in connection therewith the tenant shall have furnished to the landlord security reasonably satisfactory to the landlord.

Management vested in tenant. 9. The management of the leased premises and all improvements thereon, including the parking facilities and the auditorium, shall at all times during the continuance in force of the term hereby granted be vested in the tenant, its assigns, including any mortgagee and their sub-lessees and licensees.

Payment to landlord. 10. The tenant shall pay to the landlord as rent (as hereinafter provided in sub-paragraph (a) commencing with the day immediately following (1) the expiration of two (2) years (subject to extension thereof to the extent and in the manner hereinafter provided) from the delivery of the demised premises by the landlord to the tenant in suitable condition for it to proceed with its construction thereon as hereinunder provided, or (2) the completion of such construction if earlier, and the tenant shall also pay to the landlord as a property tax

(as hereinafter provided in sub-paragraph (b)) :—

Annual Fixed Ground Rent (\$50,000.00).

(a) A fixed ground rent at the rate of fifty thousand dollars (\$50,000.00) per annum in lawful money of the Dominion of Canada (hereinafter called the "Fixed Ground Rent"), payable in equal quarter-annual instalments of Twelve thousand five hundred dollars (\$12,500.00) in advance on the first day of each and every quarterly period during the balance of the term hereof; the Five thousand dollars (\$5,000.00) paid by the tenant upon the execution hereof to be credited and applied against the first instalment of the Fixed Ground Rent as and when due; and

25% or 30% of net income constitutes property tax.

(b) An amount equal to twenty-five per centum (25%) of the net income as hereinafter defined in each year received by the tenant from the operation of the premises, during the first forty (40) years of such operation or the period required for the retirement of the debt incurred by the tenant or assigns in the development and completion of the Project, whichever is the shorter period, and thereafter during the balance of the term of this lease an amount equal to thirty per centum (30%) of such net income, such amount being hereinafter called "Property Tax", and being in lieu of all taxes on the demised premises and the Project with the exception of the business tax payable or to be payable by sub-lessees of the tenant, but exclusive of the tenant. The Property Tax for each calendar year or portion thereof shall become due and payable on the first day of April following the end of the calendar year and the amount thereof due therefor shall be determined in accordance herewith as a result of an annual audit of the books and records of the tenant by a firm of Chartered Accountants selected by the tenant and approved by the landlord, or at the option of the landlord, the landlord may at its expense appoint its own auditors and the tenant will permit the auditors so appointed to inspect the books and records of the tenant at all reasonable times and may obtain such information from said books and records as said auditors may require in order to ascertain the true state of the accounts of the tenant in relation to the Project. The net income in each year of operation shall be determined by deducting from the gross income in such year:

- (1) the amount of the Fixed Ground Rent therefor;
- (2) the interest on any indebtedness incurred to pay the cost of the Project which shall include the full costs and expenses of the development, construction and comple-

tion of the Project herein called the "cost", but such costs shall not include any allowance for bonus (which shall not be deemed to mean or include any discounts on sales of securities), for promotion, or for the assignment of the lease hereinbefore referred to (except actual out of pocket expenses incurred in connection therewith).

(3) the dividends on any preferred shares issued by the tenant for the development, construction and completion of the Project and for the provision of working capital, such dividends not to be in excess of current market rates prevailing at the time of subscription, due regard being paid to the type of project involved, and should the landlord contend that such dividends on any preferred shares shall be in excess of current market rates then in that event the rates shall be subject to the approval of the Board of Public Utility Commissioners of the Province of Alberta.

(4) the amount set aside or required to be set aside in such year in order that such indebtedness, but not including outstanding preferred shares, may be retired in not less than twenty-five (25) nor more than forty (40) years as may be arranged by the tenant.

(5) the cost and expenses of operation, maintenance (including replacements) and repair of the Project; and

(6) the reasonable corporate expenses of the tenant, including but not limited to the following items:

(i) Compensation to all corporate officers not exceeding a total of one and one-half ($1\frac{1}{2}\%$) per cent and fees to all directors as such not exceeding one-quarter ($\frac{1}{4}\%$) per cent of the gross income of the tenant from the Project.

(ii) Cost of insurance.

(iii) Reasonable fees for legal, accounting, engineering and other professional services.

(iv) Commissions to real estate brokers at customary rates for the renting of space in the Project.

(v) Such expenses for operating personnel as may be necessary to meet the rates of pay and terms and conditions of employment prevailing at the time and to ensure efficient operation.

(vi) Any other legitimate expense which a reasonable and prudent man would incur in the operation of a similar enterprise, and

(vii) Any other taxes (exclusive of Provincial or Dominion Income taxes) which may be imposed by the Province of Alberta or the Dominion of Canada.

(c) the tenant hereby agrees that the rate of interest to be paid on the financial outlay necessary in connection with the

Project shall not be in excess of current market interest rates prevailing at the time, due regard being paid the type of Project involved, and should the landlord contend that such rate of interest on the indebtedness issued is in excess of current market rates then in that event the rates shall be subject to the approval of the Board of Utility Commissioners of the Province of Alberta.

(d) In case of dispute arising between auditors of company and auditors of landlord as to what is the net income of the company such dispute may be referred to Arbitration under paragraph 25 hereof.

No taxes to be imposed on tenant.

11. (1) The landlord covenants that during the term hereof the property hereby demised and the Project shall not be subject to any other tax imposed by the landlord other than that hereinbefore provided, it being understood and agreed that the payment of the Property Tax is in lieu of all taxes payable to the City of Edmonton of every kind and nature to be assessed or levied upon the demised premises and the Project during the term hereof, exclusive of business tax for which sub-lessees of the tenant may become liable and subject to the provisions of sub-paragraph (2) hereof.

(2) Only the premises utilized by the tenant for motor vehicle parking, for the auditorium, the art gallery and children's nursery and play area and any public service features, the necessary office space to be occupied by the tenant for administration purposes and space for the heating or other necessary operation of the Project shall not be subject to business tax levied by the landlord.

Tenant given right to issue mortgage bonds.

12. (1) The landlord has been advised by the tenant that the tenant contemplates mortgaging its interest under this lease for an amount not to exceed the cost of development and completion of the Project, including furniture, fixtures, furnishings and equipment, under a mortgage or mortgages that will permit the issuance of bonds secured thereby, and the landlord hereby agrees that the execution of such mortgage or mortgages shall not be deemed a violation of the covenant of this lease not to assign except to the Centre without the prior consent of the landlord.

Tenant may issue mortgage bonds for total cost of under-taking.

(2) It is agreed that the tenant may mortgage or convey by deed of trust in the nature of a mortgage or secure by mortgage or debenture bond or bonds, its estate or interest in this lease to secure a bona fide loan or loans of money actually made or to be made to the tenant

to cover the cost of development and completion of the Project or extend, renew, replace or increase the same or to provide for extension, renewals, replacements or to increase the accommodation or facilities thereof; provided that the proceeds of any monies so realized shall be utilized solely for the purposes aforesaid and provided further that no mortgagee or mortgagees or trustee or trustees nor anyone who claims by, through or under such mortgage or deed of trust in the nature of a mortgage shall by virtue of such mortgage or mortgages or deed or deeds of trust acquire any greater or more extended rights than the tenant has under this indenture, except as hereinafter in this Article 12 provided; **AND PROVIDED FURTHER** that any such mortgage or mortgages or deed or deeds of trust and the rights and interest of the mortgagee or mortgagees or trustee or trustees and of all persons who claim by or through or under such mortgage, mortgages or deeds of trust shall be in all respects subject, subservient and subordinate to all the conditions, provisions, stipulations, requirements, covenants and obligations of this indenture, and the rights, powers and privileges of the landlord thereunder.

Mortgage bonds to be amortized over period not exceeding 40 years.

(3) Any mortgage or mortgage bonds or any other indebtedness of similar nature shall be amortized over a period of from 25 to 40 years from the date of respective issue thereof and all mortgages and mortgage bonds shall expressly state that they are subject to

all the terms of this lease, and the tenant covenants that the proceeds of such mortgage or mortgage bonds, less reasonable and usual legal and brokerage fees, shall be directly and appropriately applied and used for the purposes of the Project.

Notice by landlord to mortgagee in event of any default by tenant.

(4) In the event that the tenant or its assignee shall so mortgage its interest hereunder and such mortgage or mortgages shall be recorded or filed within the Province of Alberta, the landlord covenants and agrees to and with the tenant

that in case any default shall occur by reason of which the landlord may terminate this lease and declare the same to be at an end or may exercise its right of re-entry while any such mortgage, or any renewal, extension or replacement thereof is still in force, the landlord shall give one hundred and eighty (180) days' written notice of such default to the mortgagee under such mortgage by mailing the same, postage prepaid by registered mail, to the address of the mortgagee as stated in the mortgage or filed with the landlord, and within such one hundred and eighty

Right of mortgagee to substitute for tenant.

(180) days (unless the tenant shall have within the first one hundred and twenty (120) days of such period cured such default) the mortgagee shall have a right to ask the landlord to substitute it for the tenant under this lease with the same effect as if the lease had originally been entered into with the mortgagee, **PROVIDED, HOWEVER**, that the mortgagee, before being substituted for the tenant, shall remedy any default under the terms of this lease, other than default in the payment of principal and interest secured by the mortgage and will enter into an agreement with the landlord to carry out all the terms of this lease required on the part of the tenant to be performed.

(5) Preferred stock dividends, debt interest and the repayment of debt principal shall be payable in Canadian funds or in United States funds in accordance with which of such funds original payments for such preferred stock or bonds, notes or other evidences of indebtedness are or were received, it being further understood and agreed that any United States funds so received in such original payment shall be utilized for the Project up to their full value in Canadian funds.

(6) Preferred stock and mortgage bonds shall be issued only for purposes directly concerned with and used in the cost of the Project, and no preferred stock or mortgage bonds shall be issued for bonuses or promotional services.

Recapture clause.

12A. (1) If at any time after the mortgage bonds, debentures, notes or other obligations for the payment of money issued by tenant to secure the repayment of the cost of the Project as hereinabove defined have been repaid in full with interest, or at the expiration of 40 years, whichever shall be the earlier, the Council (landlord) should decide that it is in the public interest to use the demised land for other purposes, it may take over the Project upon compliance with the following provisions, namely:

(a) payment of, or provision for payment of any mortgage bonds, debentures, notes or other obligations for the payment of money issued by tenant to secure the repayment of the cost of the Project as hereinabove defined.

(b) Payment of, or provision for the redemption of any outstanding preferred shares at the call price thereof, and accrued and unpaid dividends.

(c) Payment of the outstanding and unpaid liabilities incurred by the tenant pursuant to the terms of this agreement.

(d) Payment to tenant of the full then present value of the tenant's interest in the unexpired term of the lease as found

and determined by a board of three (3) qualified real estate appraisers, each of whom shall be a member of the American Institute of Real Estate Appraisers, one of whom shall be selected by the tenant, the second to be selected by the landlord and the third to be named by the first two appraisers selected by the tenant and landlord aforesaid, or in the event of their inability to agree then to be named by a judge of the Supreme Court of the Province of Alberta, together with an additional allowance of 10% for the compulsory taking.

(2) The landlord must also indemnify the tenant and hold tenant harmless from responsibility arising from all existing leases and other commitments lawfully entered into pursuant to the provisions of this agreement.

(3) Upon payment by the landlord of the foregoing amounts the term hereby granted shall be determined and at an end and the tenant undertakes to execute and deliver to the landlord a Surrender of Lease or such other document or documents as the landlord may reasonably require to ensure quiet and peaceful possession and occupation of the premises free from all demands or claims of the tenant or any person claiming under the tenant.

Sub-letting by tenant. 13. (1) Except as provided in sub-paragraph (3) of this paragraph the tenant may sublet any part of the Project, provided, however, that such sub-letting shall be on such terms and conditions as will ensure the carrying out of the Project according to the true intent hereof.

(2) The tenant shall not assign this lease without the approval in writing of the landlord, which approval shall not be unreasonably withheld.

(3) No sub-lease to any person, firm or corporation owned or controlled directly or indirectly by the tenant or by any person operating the Project, shall be made without the consent of the landlord and if any sub-lessee becomes owned or controlled directly or indirectly by the tenant or person operating the Project during the period of such sub-lease, the consent of the landlord for the continuance of such sub-lessee in occupation of the premises or part thereof shall be obtained, it being understood that the purpose of the sub-paragraph is to ensure that a fair rental shall be paid by a sub-lessee so owned or controlled.

Tenant to maintain. 14. The tenant shall keep and maintain in good repair, order, safe condition, and pleasing and dignified appearance, any buildings and improvements, including landscaping and parking areas, erected by it upon the demised premises.

Rentals for an auditorium.

15. The rental or rentals to be charged for the use of the auditorium or any part thereof shall be based upon the purposes and use for which the same may respectively be required and the type and quality of the performance or events, and the auditorium shall be operated with due regard being paid to the intent and meaning of this agreement from the standpoint of public service, and, whenever reasonably practicable, the preference shall be given to established local institutions and local cultural requirements. To aid it in complying with the foregoing provisions and intent, tenant agrees to consult and advise with an auditorium advisory committee or board of not less than three nor more than nine citizens of Edmonton, to be selected by landlord in such manner and for such terms as landlord may determine, regarding the use of the auditorium for such local institutions and organizations and local cultural requirements and the fair and reasonable charges to be made therefor.

Charges for parking. 16. Except in the case of overnight parking, the initial charge to be made for self parking space above and below ground level for private passenger motor vehicles shall be ten (10) cents per unit per hour or the first fraction of any hour so utilized, subject to variation depending upon changed economic conditions or unanticipated operating expense.

Tenant to hold landlord and premises free from liens for material and labor. 17. That the tenant shall pay for all material and labor supplied and all other costs and expenses involved in the construction of the Project and indemnify and save harmless the landlord therefrom and if, because of any act or omission of the tenant, any mechanic's or other lien or order for the payment of money shall be filed against the demised premises or any building or improvement thereon or against the landlord, the tenant shall at the tenant's own cost and expense cause the same to be cancelled or discharged of record and shall indemnify and save harmless the landlord from and against any and all loss resulting therefrom or by reason thereof.

Insurance coverage on buildings, etc. 18A. At all times after it shall have commenced to build on the demised premises, the tenant shall:

(1) Keep any buildings erected by the tenant upon the demised premises, whether partially or wholly constructed, including all equipment in or appurtenant to the same and all alterations, changes, additions or improvements thereto, insured for the benefit of the mortgagees of this

leasehold and the landlord against loss or damage by fire (with extended coverage), lightning, tornado, boiler or other explosions or damages caused by the operation of aircraft and war damage if obtainable (during a period of war only) in an amount equal to the full insurable value thereof, exclusive of the value of stone, concrete and brick foundations below grade and all underground pipes and piling, all policies of insurance shall provide that loss, if any, payable thereunder shall be payable to the mortgagee, the tenant and the landlord, as their respective interests may appear and all such policies with evidence of payment of the premiums thereon shall be delivered to and held by the mortgagee, or if there be no mortgage, to the landlord, but true copies of all policies and evidence of payment of premiums shall be delivered to the landlord forthwith after payment of premiums has been made. All such policies shall be procured through such companies as are authorized to do business in the Province of Alberta as the tenant and any mortgagee or mortgagees shall select, provided, however, the form of such policies shall be satisfactory to the landlord.

Public liability and accident insurance.

(2) Beginning on the date on which possession of the premises is delivered to the tenant as provided for in paragraph 2 hereof, provide and keep in force in companies licensed to do business in the Province of Alberta, general accident, public liability, elevator and sidewalk hoist (when the latter two are installed), escalator, conveyor and moving walks insurance and all other varieties of insurance providing protection in respect of liability resulting from accident or disaster, to fully protect the tenant, the mortgagee or mortgagees and the landlord against any and all liability occasioned by accident or disaster in the amount of one hundred thousand dollars (\$100,000.00) in respect of injuries to any one person, and in the amount of five hundred thousand dollars (\$500,000.00) in respect of any one accident or disaster or in such additional amounts as may be required by the mortgagee or mortgagees and the landlord and in such form as shall be satisfactory to the landlord, and such accident and liability insurance shall cover the entire premises; and shall also provide and keep in force boiler and other explosion insurance with limits in like amounts. True certified copies of such policies shall be delivered to the mortgagee or mortgagees and the landlord.

Parties to co-operate in collections of proceeds of insurance.

(3) The landlord and tenant shall co-operate with each other and with any mortgagee or mortgagees in connection with the collection of any insurance moneys that may be due in the event of loss and

shall execute and deliver such proofs of loss and other instruments which may be required for the purpose of facilitating the recovery of any such insurance.

City may insure if tenant fails.

(4) Should the tenant fail or neglect to insure in manner aforesaid, the landlord may insure and charge the cost thereof to the tenant, who covenants to pay such cost upon demand.

Reconstruction or restoration after damage by fire, etc.

19. (1) If any buildings or improvements on the demised premises are partially destroyed or damaged by a risk against which insurance is carried by the tenant, the tenant and the mortgagee or mortgagees shall be obligated to restore such damage or destruction, but only to the extent of the proceeds of insurance policies actually received by it. For the purpose of accomplishing the restoration of such damage or destruction the landlord shall assign to the tenant any interest of the landlord in the proceeds of any insurance policies.

(2) In the event of the Project being destroyed or damaged to such an extent that restoration in the original form is not feasible in the opinion of the tenant, mortgagee and landlord or, if the mortgagee has been repaid, then in the opinion of the tenant and the landlord, then in that event the tenant may surrender this lease and the insurance money shall be applied, firstly, in payment of any unpaid balance secured by a mortgage or mortgagee, if any; secondly, to cover the outlay necessary to demolish and clear the area of debris; thirdly, in payment of outstanding liabilities of the tenant incurred in connection with the Project, and the surplus to be divided between the landlord and the tenant in the ratio of 1/69th for each unexpired year of the leasehold term to the landlord and the balance to the tenant.

Tenant responsible for management.

20. The tenant covenants that it will supervise and be responsible to the landlord for the management of the entire Project, subject to the right of the tenant to sub-let as hereinbefore provided.

Disputes to be arbitrated.

21. Any dispute between the landlord and the tenant, except as to payment of the rent reserved, or as to paragraph 6 hereof, shall be settled in accordance with Article 25 hereof.

Events constituting default by tenant.

22. (1) In case of any substantial breach, non-observance or non-performance of any of the covenants, stipulations or conditions on the part of the tenant to be performed and observed, it

shall be lawful for the landlord to re-enter into and upon the demised land or any part thereof in the name of the whole and the same to have again, re-possess and enjoy as of its former estate, unless such breach, non-observance or non-performance is remedied within the time and in the manner hereinafter provided (and if not so provided then within 120 days after notice of such default by landlord), and without restricting the generality of the foregoing it is stated that each of the following events shall constitute an event of default hereunder, namely:

(a) Failure of the tenant or the mortgagee or mortgagees to pay any instalment of the Fixed Ground Rent then due and continuation of such failure for more than ninety (90) days after notice of default is given to each by the landlord.

(b) Failure of the tenant or the mortgagee or mortgagees to pay the property tax then due and continuation of such failure for more than one hundred and twenty (120) days after notice of default is given to each by the landlord.

(c) Failure of the tenant or the mortgagee or mortgagees:

1. to insure as hereinbefore provided;
2. to maintain the Project in good repair, order, safe condition and appearance; and
3. to maintain and operate the Project for the purposes herein provided, and continuation of any such failure for more than 120 days after notice of default is given to each by the landlord.

(d) Failure to commence and complete the Project at and within the time specified, subject to the provisions of paragraph 26 hereof.

(e) Failure to pay mortgage indebtedness or to provide proper sinking fund to meet required instalment payments of mortgage indebtedness.

(f) Failure to pay mechanic's and other liens, provided that should the tenant dispute any claim for lien it shall not be deemed to be in default until sixty (60) days after the final determination by a Court of competent jurisdiction upholding the validity of the lien.

(g) Breach of any of the provisions of paragraph 13 hereof.

(2) The tenant shall be in default under this lease if and only if an event of default as provided in this Article 22 has occurred and the waiver by the landlord of any default shall not constitute a waiver generally and shall not apply to any future default.

In event of default by tenant notice thereof to be given to mortgagee.

after whereon the demised term shall end, and upon the day so specified in such notice, unless the tenant shall have within the first one hundred and twenty (120) days after such notice cured the default (in which case this lease shall continue in full force and effect), or unless the mortgagee or mortgagees shall have elected to be substituted for the tenant as in Article 12 provided (in which case this lease and the term hereof shall continue in full force and effect but as though the mortgagee or mortgagees had been the tenant), the demised term shall end and expire as fully and completely as if that were the day herein originally fixed for such expiration, and the tenant shall then quit and surrender the demised premises to the landlord and the landlord may re-enter the demised premises or any part thereof and re-possess the same free from claim by any mortgagee or mortgagees otherwise howsoever, and remove the tenant, and any and all persons claiming through or under the tenant therefrom and have, hold and enjoy the demised premises again as of its first estate and interest therein, and thenceforth the tenant shall have no further interest in and to the demised premises.

Where notices to be sent.

24. (1) All notices, demands and communications hereunder shall be in writing and served or given by registered mail, and if intended for the landlord shall be addressed to the landlord at the Civic Block, in the City of Edmonton, in the Province of Alberta, Dominion of Canada, or to such other address as may be requested by the landlord in writing, and if intended for the tenant, shall be addressed to the tenant at 120 Broadway, New York, N.Y., U.S.A., or to such other address as may be requested by the tenant in writing, and if intended for the mortgagee or mortgagees, to such address as may be requested by the mortgagee or mortgagees in writing.

(2) Any notice given hereunder by mail shall be deemed delivered when deposited in a general or branch post office in the Dominion of Canada or the United States of America enclosed in a registered prepaid wrapper, addressed as above provided.

Dispute by Arbitration.

25. (1) In any case where this lease provides for the settlement of a dispute or question by arbitration the same shall be

constructed of high quality reinforced concrete.

Exterior Walls

In general it is proposed to use native stone, such as Tyndall stone, for the exterior facing of the lower structures. Tyndall stone is now being used in the addition to the Macdonald Hotel adjacent to the proposed City Centre. For the tower structures above the four-storey level, it is proposed to make extensive use of glass blocks combined with vision strip windows and stainless steel or aluminum trim. Note: Exposed stainless steel trim used in the Empire State Building in New York, constructed in 1930, is today in excellent condition despite the rather high sulphuric content of the New York atmosphere.

Stores, Display Windows, Etc.

First quality extruded aluminum trim and plate glass will be extensively used, and all exterior display windows will be protected by canopies extending over the major portion of the sidewalks. These canopies will be of Class 1 construction employing structural steel or reinforced concrete to conform with the the selected structural frame for the major buildings.

Interiors, Public Spaces, Corridors, Etc.

It is proposed to finish these areas with quality materials, such as terrazzo floors and ceramic tile walls. Rental space, such as offices, will have standard first-grade finishes such as plaster walls, asphalt tile floors and fluorescent lighting.

